

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of BIANCA SMITH, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

GIDGET BIGELOW,

Respondent-Appellant,

and

WILLIAM SMITH,

Respondent.

UNPUBLISHED

June 14, 2007

No. 275105

Muskegon Circuit Court

Family Division

LC No. 05-034244-NA

Before: Davis, P.J., and Hoekstra and Donofrio, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the trial court order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i) and (g). We affirm. This case is being decided without oral argument under MCR 7.214(E).

The trial court did not clearly err by finding at least one statutory ground for termination of respondent-appellant's parental rights was established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The conditions of adjudication were respondent-appellant's abuse of Bianca and failure to protect her, as well as neglect and failure to supervise.

The trial court was warranted in concluding that respondent-appellant's inability to adequately protect and care for the child continued to exist in light of evidence indicating that she failed to substantially comply with the parent agency agreement, not beginning counseling until six months after the initial dispositional order, and not attending consistently until after the termination petition was filed. Respondent-appellant's psychological evaluation indicated that she lacks insight into the fact that her own childhood did not prepare her to be a good parent, and she does not take responsibility for her own actions. According to the foster care worker, and consistent with the record, respondent-appellant did not believe she had issues to address and felt she was a good parent. Respondent-appellant's failure to comply with the parent-agency

agreement for approximately one year supplies some indicator of her likely future conduct. During these proceedings, respondent-appellant not only continued to have contact in contravention of court order with Ryan Murdzia, the abuser of Bianca who has had parental rights to other children terminated; she also in May 2006 took Bianca's younger sibling out of her guardian's home without permission and, the record strongly suggests, exposed her to Mr. Murdzia.¹

These actions indicate a significant lack of judgment and failure to appreciate the reasons for the children being removed from her care. Where respondent-appellant after one year has only begun to enter the process wherein she may address the emotional issues that interfere with her ability to parent the child, where she has displayed grossly poor judgment concerning her other child during these proceedings, and where Bianca is only three years old but has been out of respondent-appellant's care for more than one year, the trial court did not clearly err by concluding that there was no reasonable likelihood that the conditions of adjudication would be rectified within a reasonable time considering the age of the child. MCL 712A.19b(3)(c)(i).

Termination was also appropriate under MCL 712A.19b(3)(g). Respondent-appellant failed to provide proper care and custody for Bianca by striking her with a brush so as to cause injuries and by allowing Ryan Murdzia to abuse the child. The same evidence indicating that there is no reasonable likelihood that the conditions of adjudication will be rectified within a reasonable time considering the age of the child, MCL 712A.19b(3)(c)(i), equally indicates that there is no reasonable likelihood that respondent-appellant will be able to provide proper care and custody for her within a reasonable time considering her age. MCL 712A.19b(3)(g). We further note that, at the time of the termination trial, respondent-appellant was not employed and had moved from a residence that the foster care worker accepted as physically adequate to a location in Ottawa County, where she was not known to have friends or family for support. Based on all this evidence, termination under statutory subsection (g) was not clearly erroneous.

Finally, the trial court did not clearly err by finding that termination was not clearly contrary to the best interests of the child. MCL 712A.19b(5). The record indicated that Bianca was doing very well in her placement, and her behavior, which had been quite difficult, was improving. Because respondent-appellant entered the potentially rehabilitative process so recently and by all indications still does not recognize the issues that impair her ability to parent the child, it is impossible to know when, if ever, she will be in a position to provide the stability and security that the child needs. Under these circumstances, we are not left with a definite or firm impression that the trial court made a mistake in its best interests determination. *In re Terry*, 240 Mich App 14, 22; 610 NW2d 563 (2000).

¹ Bianca's sibling, Arianna Murdzia, was removed from respondent-appellant's care and placed in the jurisdiction of the court at the same time as Bianca. Arianna was subsequently placed in a guardianship and the court's jurisdiction over her was terminated. Arianna is not a party to this appeal.

Affirmed.

/s/ Alton T. Davis
/s/ Joel P. Hoekstra
/s/ Pat M. Donofrio